

KCC 4777  
(KC 17,448)  
PATENT

Remarks

Claims 1, 13, 14, and 15 are amended herein, and new claims 17-22 are added. Upon entry of this amendment, claims 1-22 will be pending. The Commissioner is authorized to charge the fees for two claims in excess of twenty, and for any deficiencies in payment to Deposit Account No. 19-1345.

Applicants have invented a unique absorbent article for a child having an aesthetic appearance which facilitates an easier toilet training process. A key feature is a graduated coloration which permits both: 1) a moderately darker color on front and back sides which encourages the child to wear the article because it more closely resemblances garments worn by older children and adults, and 2) a visible element such as an active graphic which changes its degree of visibility when exposed to liquid as a tool for motivating the child to use the toilet. The coloration also masks features not intended to be seen, such as underlying anatomical features or bodily exudates. The visible element remains on a lightly colored or white background in order to maintain a visible appearance which will not be obscured by more intense coloration.

I. Response to Rejections under 35 USC § 112

As requested by the Examiner, applicants have amended claim 1 to clarify the claim language. Claim 1, as amended, recites a visible element at a location where the coloration is of lower intensity or absent such that the element remains visible and is not obscured by the color gradation.

Applicants submit that claim 1 is clear and definite within the requirements of 35 USC § 112. Claims 2-14, which depend directly or indirectly from claim 1, are patentable for

KCC 4777  
(KC 17,448)  
PATENT

the same reasons as claim 1. Accordingly, applicants request that the Section 112 rejections of claims 1-14 be withdrawn.

No explanation is provided in the Office action for the rejections of claims 15 and 16 under 35 USC § 112. However, Applicants have herein amended claim 15 with the assumption that the Office objected to the phrase "so as not to obscure an indication of wetness by the wetness indicator", as that phrase is similar to the phrase found objectionable in original claim 1. As amended, claim 15 recites a wetness indicator in the crotch region at a location where the coloration is of lower intensity or absent such that any indication of wetness by the wetness indicator remains visible and is not obscured by the color gradation. Claim 15 is submitted as being clear and definite within the requirements of 35 USC § 112. Claim 16, which depends from claim 15, is clear and definite for the same reasons as claim 15. Accordingly, applicants request that the Section 112 rejections of claims 15 and 16 be withdrawn.

## **II. Response to Rejections under 35 USC § 102**

### **A. Claims 1-14**

Applicants respectfully request reconsideration of the rejection of Claim 1 over U.S. Patent No. 6,075,178 (La Wilhelm et al).

Claim 1 is directed to a disposable absorbent article having a gradation in color intensity. Claim 1 recites, among other elements, a color gradation providing a coloration which varies in intensity from a higher intensity of color to a lower intensity of color, and a visible element at a location where the coloration is of lower intensity or absent such that the element remains visible and is not obscured by the color gradation.

KCC 4777  
(KC 17,448)  
PATENT

Neither La Wilhelm nor any other reference of record shows every element of claim 1. La Wilhelm describes an absorbent article, such as a diaper, which is configured to provide an indication of wetness. The article includes a backsheet (30), a liquid permeable topsheet (28), a liquid retention layer (48), and a wetness indicator (40) for visually showing the presence of liquid in selected areas of the article. The backsheet may be embossed with a pattern or matte finish to exhibit an aesthetically pleasing appearance, such as shown in Figure 7. The wetness indicator includes translucent windows (98) revealing portions of a contrast layer (44), e.g., a pigmented tissue layer, which are aligned with the windows. The contrast layer has a first appearance when dry and a visually different, second appearance when wetted. The change may involve either a transformation between lighter and darker appearances of a single color or between two altogether different colors.

The examiner's rejection of claim 1 over La Wilhelm is unclear. It appears the examiner is contending that applicants' claimed color gradation and visible element (e.g., an active graphic) are comparable to La Wilhelm's contrast layer 44, when wetted, as viewed through a window 98. However, the contrast layer as viewed through the window cannot properly be construed as both the claimed color gradation and visible element. Thus, to the extent the examiner contends that the wetted contrast layer 44 as viewed through a window 98 is comparable to applicants' "visible element" then there is no color gradation, and to the extent the examiner contends that the wetted contrast layer 44 as viewed through a window 98 is comparable to applicants' "color gradation" then that same window cannot be applicants' claimed "visible element".

KCC 4777  
(KC 17,448)  
PATENT

Further, La Wilhelm fails to show a "color gradation" in any event. If a portion of the contrast layer 44 as viewed through a window 98 is wet and an area adjacent the window is dry, the two areas will display sharply different colors separated by the defined edges of the window. (That is, the area inside the window will be one color and the area outside the window will be another color, and these two colors will be sharply defined by the edges of the window.) Clearly, therefore, there is no series, gradual progression, or stages of color intensity. It also bears emphasis that La Wilhelm does not recognize the problem solved by applicants' disclosure, specifically, providing a color gradation which varies in intensity so that selected areas of an article such as a training pant have a higher color intensity to create certain visual effects and other areas of the article have a lower color intensity (or no color) to allow an element such as an active graphic to be seen and not obscured by the color of higher-intensity.

Nor is there any motivation to add a color gradation to La Wilhelm's absorbent article. The translucent windows provide visibility to the appearance of the contrast layer regardless of the surrounding color or lack of color. Thus, there is simply no suggestion or reason to provide a color gradation as set forth in claim 1 of the present application.

Since the invention disclosed in La Wilhelm neither discloses nor suggests the article recited in claim 1, the Section 102 rejection is improper. Accordingly, applicants request that the rejection be withdrawn.

Claims 2-14, which depend directly or indirectly from claim 1, are patentable for the same reasons as claim 1. Accordingly, applicants respectfully request that the rejections of claims 2-14 be withdrawn.

KCC 4777  
(KC 17,448)  
PATENT

B. Claims 15 and 16

Applicants respectfully request reconsideration of the rejection of Claim 15 over La Wilhelm. Claim 15 is directed to a disposable absorbent pant and recites, among other elements, a color gradation providing a coloration which varies from a higher intensity of color in the vicinity of a waist region to a lower intensity of color toward a crotch region.

Neither La Wilhelm nor any other reference of record shows every element of claim 15. As discussed above, La Wilhelm fails to show a color gradation. Moreover, La Wilhelm fails to show a higher intensity of color in the vicinity of a waist region and lower intensity of color toward a crotch region. Since the invention disclosed in La Wilhelm neither discloses nor suggests the disposable absorbent pant recited in claim 15, the Section 102 rejection is improper. Accordingly, applicants request that the rejection be withdrawn.

Claim 16, which depends from claim 15, is patentable for the same reasons as claim 15. Accordingly, applicants respectfully request that the rejection of claim 16 be withdrawn.

III. Claims 13 and 14

Applicants have amended claims 13 and 14 to provide proper antecedent bases for the term "crotch region."

IV. New Claims 17-22

New claims 17-22 are directed to subject matter not disclosed or suggested by the art of record. The claims recite that the color gradation is printed in the visible area of the article, and that it appears regardless of whether the area is

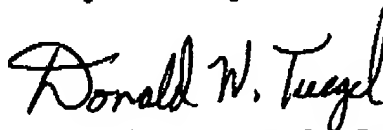
KCC 4777  
(KC 17,448)  
PATENT

wet or dry. By contrast, the differing appearances of La Wilhelm's contrast layer are not printed and do not appear unless a portion of the area is wet.

V. Conclusion

In view of the foregoing, consideration and allowance of claims 1-22 are respectfully requested.

Respectfully submitted,



Donald W. Tuegel, Reg. No. 45,424  
SENNIGER, POWERS, LEAVITT & ROEDEL  
One Metropolitan Square, 16th Floor  
St. Louis, Missouri 63102  
(314) 231-5400

DWT/sxm